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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,246	12/15/2003	J.E. Melchiori	2475.001	5839
21917	7590	07/20/2005	EXAMINER	
MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410			GALL, LLOYD A	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/737,246

Applicant(s)

MELCHIORI, J.E.

Examiner

Lloyd A. Gall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/15/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 1-23 are objected to because of the following informalities: On page 19, lines 6, 9 and throughout claims 1-18, consistency should be maintained between “handle” and “handle means”. On page 19, line 8, “upward” should be replaced with –upwardly--. On page 20, line 26, a comma should follow “means” at the end of the line. On page 21, line 21, “structure” should be replaced with --kit--. On page 22, line 2, “upward” should be replaced with –upwardly--. On page 22, lines 9 and 11, --member-- should follow “bolt”. Claim 14 should depend from claim 13 to further define the catch pin. In claim 15, it is not clear what constitutes a “multi-element pin”. On page 24, line 25, --a--should follow “on”. On page 25, line 6, there is no antecedent basis for “said steps”. Claim 21 should depend from claim 20 to further define the “body portion” on page 26, line 8. On page 26, lines 22-23, there is no antecedent basis for “said end portion”. On page 26, line 23, a comma should follow “handle”. Appropriate correction is required.

The drawings are objected to because figure 1 should be labeled as “PRIOR ART”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "multi-element pin assembly" of claim 15, the "electric circuit" of page 23, lines 10 and 12, and the "ownership card" and "digital information" of claims 17 and 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Applicants should note that "secured to a rear surface" on page 22, line 1 is regarded as positively claiming the door, and "mounted to said door frame" on page 22, line 22 is regarded as positively claiming the door frame.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Eberly (007).

Eberly teaches a latch and lock kit including a recessed catch pin 22, a handle distal end tab 28 having an aperture to receive a sliding bolt 46 of a sliding bolt lock body 48, the lock 46, 48 is secured to the door when the lock is engaged with the handle, an axis 20, a hub around the axis 20, L-shaped tabs 60, 62 are also included as a lock casing for the lock body 48, an inner surface(s) 56, 66 on the lock casing, and the L-shaped tabs are on an outer surface of the lock casing.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eberly (007) in view of Chen (560).

Chen teaches a metal (column 2, line 22) lock body 2. It would have been obvious to modify the lock body 48 of Eberly such that it is formed of metal, in view of the teaching of Chen, the motivation being to optimize its strength.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eberly (007) in view of Strodtman (419).

In column 5, line 4, Strodtman teaches a steel lock casing 10. It would have been obvious to modify the casing 54 of Eberly such that it is formed of steel, in view of the teaching of Strodtman, the motivation being to optimize its strength. With respect to claim 9, the particular type of steel claimed would have been obvious to one of ordinary skill in the art, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eberly (007) in view of Larsen et al (798).

In column 4, line 66, Larsen teaches a casing 14 formed of hardened steel. It would have been obvious to form the casing 54 of Eberly from hardened steel, in view of the teaching of Larsen et al, the motivation being to optimize its strength.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eberly (007) in view of applicant's admitted prior art.

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Eberly has been discussed above, and also teaches two backing plates 14, 32. In figure 1 of the instant application, applicant teaches that it is well known to utilize a single, enlarged backing plate 36. It would have been obvious to utilize a single backing plate for the two backing plates of Eberly, in view of the teaching of applicant's admitted prior art, the motivation being to simplify assembly of the latch components on the door.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eberly (007) in view of applicant's admitted prior art.

On page 15 of the instant application, applicant teaches that the components of claims 15-18 are well known. It would have been obvious to provide the latch assembly of Eberly with a multi-element pin assembly, electrical circuits, and an ownership card with digital information, in view of the teaching of applicant's admitted prior art, the motivation being to increase its versatility.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Plaxco and Eberly (007).

Figure 1 of the instant application teaches a latch 30, catch 34, handle 40, and a keeper 58 engaged by a padlock 66, and teaches the structure of page 24, lines 1-25 and page 25, lines 1-5. Plaxco (see column 3, lines 7-10) teaches that it is well known in the lock/latch art to retro-fit one type of door to receive a different lock/latch assembly. Eberly (007) has been discussed above. It would have been obvious to remove the keeper and padlock of applicant's admitted prior art and to provide it with a sliding bolt lock and casing, in view of the respective teachings of Plaxco and Eberly (007), the

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motivation being to provide a lock casing 54 of Eberly for protecting its padlock from tampering tools, to optimize its security.

Claims 1, 10, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Eberly (907).

In figure 1 of the instant application, applicant teaches a latch and kit for an upwardly opening door, including a recessed catch pin 34, backing plate 36, latch 30, axis 38, hub 42, handle 40, and an apertured tab 46 to receive a padlock. As seen in fig. 3, Eberly (907) teaches an apertured tab 20, 24 of a handle 18 used with a lock casing 30, 32 for protecting a sliding bolt 38 of a lock body 10. It would have been obvious to substitute a bolt of the sliding type with a lock body protected by a lock casing, for the padlock and keeper of applicant's admitted prior art, in view of the teaching of Eberly, the motivation being to protect the padlock shackle and padlock body from tampering tools, to optimize the security of the lock.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Eberly (907) as applied to claim 1 above, and further in view of Chen (560).

Chen teaches a metal lock body 2 (column 2, line 22). It would have been obvious to modify the lock body of applicant's admitted prior art in view of Eberly such that it is formed of metal, in view of the teaching of Chen, the motivation being to optimize its strength.

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Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Eberly (907) as applied to claim 1 above, and further in view of Garvey et al (016).

Garvey et al teaches that it is well known to provide L-shaped brackets 58, 60 for securing a lock casing to a door, including a vertical and horizontal portion having an aperture to receive a fastener 66. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute L-shaped brackets for the backing plate 26 of the lock casing of applicant's admitted prior art as modified by Eberly (907), in view of the teaching of Garvey et al, the motivation being to provide a secure connection to the door.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art as modified by Eberly (907) and Garvey et al as applied to claim 5 above, and further in view of Strodtman.

In column 5, line 4, Strodtman teaches a steel lock casing 10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lock casing 30 of applicant's admitted prior art as modified by Eberly such that it is formed of steel, in view of the teaching of Strodtman, the motivation being to optimize its strength. With respect to claim 9, the particular type of steel claimed would have been obvious to one of ordinary skill in the art, since it has been found that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Eberly (907) and Garvey et al as applied to claim 5 above, and further in view of Larsen et al (798).

In column 4, line 66, Larsen teaches a casing 14 formed of hardened steel. It would have been obvious to form the lock casing of applicant's admitted prior art as modified by Eberly (907) of hardened steel, in view of the teaching of Larsen et al, the motivation being to optimize its strength.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art as modified by Eberly (907) as applied to claim 10 above, and further in view of Smith et al (978).

Smith teaches a backing plate 62, 63 for a lock casing as being formed of steel (column 3, line 64). It would have been obvious to form the backing plate of applicant's admitted prior art of steel, in view of the teaching of Smith et al, the motivation being to optimize its strength.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Eberly (907) as applied to claim 10 above, and further in view of Yarborough.

In paragraph 0026, lines 2 and 5, Yarborough teaches that it is well known to form lock components of steel, and that aluminum is a well known substitute therefor. It would have been obvious to form the backing plate of applicant's admitted prior art of aluminum, in view of the teaching of Yarborough, the motivation being to optimize its durability.

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Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Eberly (907) as applied to claim 1 above, and further in view of additional teachings of applicant admitted prior art.

On page 15 of the instant application, applicant teaches that the components of claims 15-18 are well known. It would have been obvious to provide the latch assembly of applicant's admitted prior art as modified by Eberly to include a multi-element pin assembly, electrical circuits, and an ownership card with digital information, in view of the teachings of applicant's admitted prior art, the motivation being to optimize its versatility.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Plaxco and Eberly (907).

Applicant's admitted prior art and Eberly (907) have been discussed above. Plaxco (column 3, lines 7-10) teaches that it is well known in the lock/latch art to retrofit one type of door to receive a different lock/latch assembly. It would have been obvious to one of ordinary skill in the art to remove the keeper and padlock of applicant's admitted prior art and to substitute a sliding bolt lock and casing, in view of the respective teachings of Plaxco and Eberly (907), the motivation being to provide a lock casing for the padlock (sliding bolt lock), to protect it from tampering tools, to optimize its security.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art as modified by Plaxco and Eberly (907) as applied to claim 19 above, and further in view of Garvey et al.

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Garvey teaches that it is well known to provide L-shaped brackets 58, 60 for securing a lock casing to a door, including a vertical and horizontal portion having an aperture to receive a fastener 66. It would have been obvious to substitute L-shaped mounting brackets for the backing plate 26 of the lock casing of applicant's admitted prior art as modified by Plaxco and Eberly (907), in view of the teaching of Garvey et al, the motivation being to provide a secure connection to the door. With respect to claim 23, the brackets of Garvey are disclosed in column 3, line 42 as being welded, and the brackets and lock casing of the combined references would inherently be formed of metal.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

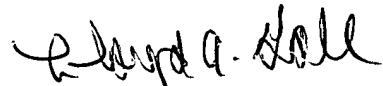
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 571-272-7056. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
July 18, 2005


Lloyd A. Gall
Primary Examiner